

BEFORE THE
Federal Communications Commission
 WASHINGTON, D. C.

JUN 16 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

)
 Amendment of Section 73.202(b),
 Table of Allotments,
 FM Broadcast Stations
 (Yermo, California).

) MM Docket No. 93-74
) RM-8153
)

REPLY COMMENTS

KHWY, Inc. ("KHWY"), licensee of KRXV(FM), Yermo, California, by its attorneys, hereby submits reply comments on the proposed amendment of the FM Table of Allotments to allot Channel 287B1, in lieu of Channel 287A, to Yermo, California, and to modify the authorization of Station KYHT(FM), accordingly. See Notice of Proposed Rule Making, 8 FCC Rcd 2483 (Chief, Allocations Branch) ("NPRM").

KHWY in Comments filed on June 1, 1993, noted that the proposed amendment would not serve the public interest because the site-restricted area for Channel 287B1 does not provide line-of-sight coverage to Yermo.

The Allocations Branch itself had expressed its concern with whether the proposal would comply with the principal city coverage requirements of Section 73.315(a) of the Commission's Rules, given the great distance of the site-restricted area from Yermo. Consequently, the NPRM

required the petitioner to submit an engineering exhibit by

the comment date demonstrating" such compliance. See NPRM at ¶ 3.

However, the petitioner failed to comply with the Allocations Branch's requirement that it submit an engineering exhibit by June 1. That is, the petitioner's Comments merely incorporated by reference its December 23, 1992 petition for rule making. The Engineering Statement attached to the December petition did no more than make an unsupported, conclusory statement that it is possible to place the requisite 70 dBu signal across Yermo. See Petition, Engineering Statement at page 1 (Section II). Because that unsupported conclusory statement was insufficient, the NPRM specifically requested detailed information in petitioner's comments, including the submission of maps outlining the community boundaries and the pertinent 70 dBu contour. NPRM at ¶ 3. Moreover, petitioner was put on express notice that failure to provide the requested information by the comment date could result in the denial of its proposal.

Given the great distance of the site restricted area from Yermo -- which leads to the assumption that principal city coverage would be infeasible -- petitioner's failure to timely file the requisite showing is material and warrants dismissal of its proposal. In any event, KHWY has demonstrated in its

Comments that the proposal would not comply with the Commission's allotment policy and should be rejected. Consequently, on either basis, the rule making proposal should be denied.

Respectfully submitted,

KHWY, INC.

By:



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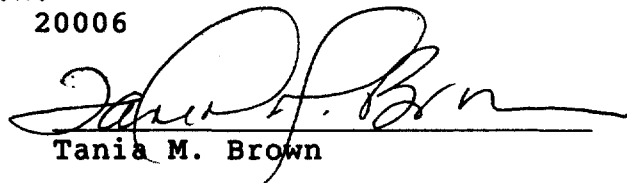
June 16, 1993

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 1993,
a copy of the foregoing Reply Comments of KHWY, Inc. was sent
by First Class United States Mail, postage prepaid, to the
following:

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